

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JAMES R. MERCER, JR.,

Plaintiff,

-v-

No. 9:13-CV-0840  
(DNH/RFT)

APS HEALTHCARE, INC., in its individual and  
official capacity; MARIKA V. WINKLER, APS  
Medical Reviewer, in her individual and official  
capacity; JONATHAN S. STRENIO, APS Medical  
Director, in his individual and official capacity;  
CHRISTINA M. MISA, Regional Medical Director,  
in her individual and official capacity; GERALD R.  
AMATUCCI, Regional Medical Director, in his  
individual and official capacity,

Defendant.  
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APPEARANCES:

OF COUNSEL:

JAMES R. MERCER, JR. 87-c-0688  
Plaintiff pro se  
Cayuga Correctional Facility  
P.O. Box 1186  
Moravia, NY 13118

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Attorney for APS Defendants  
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Albany, NY 12211

WILLIAM C. FIRTH, ESQ.

DAVID N. HURD  
United States District Judge

## **DECISION and ORDER**

Pro se plaintiff James R. Mercer Jr. brought this civil rights action pursuant to 42 U.S.C. § 1983. On June 25, 2015, the Honorable Randolph F. Treece, United States Magistrate Judge, advised by Report-Recommendation that plaintiff's motion for summary judgment (ECF No. 107) be denied and that defendants' cross motions for summary judgment (ECF Nos. 113 & 116) be granted. Plaintiff and defendants APS Healthcare, Inc., Marika V. Winkler and Jonathan S. Strenio filed timely objections to the Report-Recommendation. Plaintiff further filed a reply to defendants' objections.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

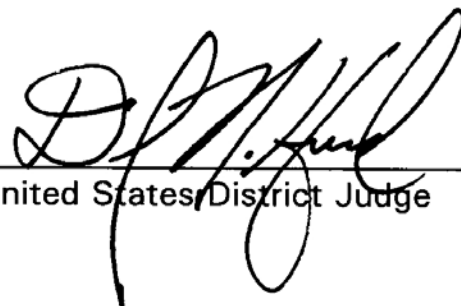
Therefore, it is

ORDERED that

1. Plaintiff's motion for summary judgment (ECF No. 107) is DENIED in its entirety;
2. Defendants' cross-motions for summary judgment (ECF Nos. 113 & 116) are GRANTED in their entirety;
3. Plaintiff's complaint is DISMISSED; and
4. The Clerk is directed to serve a copy of this Decision and Order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: September 28, 2015  
Utica, New York

  
United States District Judge